

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2280

AN ACT

AMENDING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 316, SECTION 3 AND CHAPTER 317, SECTION 11; REPEALING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 292, SECTION 2; AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; RELATING TO COLLEGE SAVINGS PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1021, Arizona Revised Statutes, as amended by
3 Laws 2005, chapter 316, section 3 and chapter 317, section 11, is amended to
4 read:

5 43-1021. Additions to Arizona gross income

6 In computing Arizona adjusted gross income, the following amounts shall
7 be added to Arizona gross income:

8 1. A beneficiary's share of the fiduciary adjustment to the extent
9 that the amount determined by section 43-1333 increases the beneficiary's
10 Arizona gross income.

11 2. An amount equal to the "ordinary income portion" of a lump sum
12 distribution that was excluded from federal adjusted gross income pursuant to
13 section 402(d) of the internal revenue code.

14 3. The amount of interest income received on obligations of any state,
15 territory or possession of the United States, or any political subdivision
16 thereof, located outside the state of Arizona, reduced, for tax years
17 beginning from and after December 31, 1996, by the amount of any interest on
18 indebtedness and other related expenses that were incurred or continued to
19 purchase or carry those obligations and that are not otherwise deducted or
20 subtracted in arriving at Arizona gross income.

21 4. Annuity income received during the taxable year to the extent that
22 the sum of the proceeds received from such annuity in all taxable years prior
23 to and including the current taxable year exceeds the total consideration and
24 premiums paid by the taxpayer. This paragraph applies only to those
25 annuities with respect to which the first payment was received prior to
26 December 31, 1978.

27 5. The excess of a partner's share of partnership taxable income
28 required to be included under chapter 14, article 2 of this title over the
29 income required to be reported under section 702(a)(8) of the internal
30 revenue code.

31 6. The excess of a partner's share of partnership losses determined
32 pursuant to section 702(a)(8) of the internal revenue code over the losses
33 allowable under chapter 14, article 2 of this title.

34 7. The amount by which the adjusted basis of property described in
35 this paragraph and computed pursuant to the internal revenue code exceeds the
36 adjusted basis of such property computed pursuant to this title and the
37 income tax act of 1954, as amended. This paragraph shall apply to all
38 property which is held for the production of income and which is sold or
39 otherwise disposed of during the taxable year, except depreciable property
40 used in a trade or business.

41 8. The amount of depreciation or amortization of costs of any capital
42 investment that is deducted pursuant to section 167 or 179 of the internal
43 revenue code by a qualified defense contractor with respect to which an
44 election is made to amortize pursuant to section 43-1024.

- 1 9. The amount of gain from the sale or other disposition of a capital
2 investment which a qualified defense contractor has elected to amortize
3 pursuant to section 43-1024.
- 4 10. Amounts withdrawn from the Arizona state retirement system, the
5 corrections officer retirement plan, the public safety personnel retirement
6 system, the elected officials' retirement plan or a county or city retirement
7 plan by an employee upon termination of employment before retirement to the
8 extent they were deducted in arriving at Arizona taxable income in any year.
- 9 11. That portion of the net operating loss included in federal adjusted
10 gross income which has already been taken as a net operating loss for Arizona
11 purposes or which is separately taken as a subtraction under the special net
12 operating loss transition rule.
- 13 12. Any nonitemized amount deducted pursuant to section 170 of the
14 internal revenue code representing contributions to an educational
15 institution which denies admission, enrollment or board and room
16 accommodations on the basis of race, color or ethnic background except those
17 institutions primarily established for the education of American Indians.
- 18 13. The amount paid as taxes on property in this state with respect to
19 which a credit is claimed under section 43-1078.
- 20 14. Amounts withdrawn from a medical savings account by the individual
21 during the taxable year computed pursuant to section 220(f) of the internal
22 revenue code and not included in federal adjusted gross income.
- 23 15. Any amount of agricultural water conservation expenses that were
24 deducted pursuant to the internal revenue code for which a credit is claimed
25 under section 43-1084.
- 26 16. The amount by which the depreciation or amortization computed under
27 the internal revenue code with respect to property for which a credit was
28 taken under section 43-1080 exceeds the amount of depreciation or
29 amortization computed pursuant to the internal revenue code on the Arizona
30 adjusted basis of the property.
- 31 17. The amount by which the adjusted basis computed under the internal
32 revenue code with respect to property for which a credit was claimed under
33 section 43-1080 and which is sold or otherwise disposed of during the taxable
34 year exceeds the adjusted basis of the property computed under section
35 43-1080.
- 36 18. The amount by which the depreciation or amortization computed under
37 the internal revenue code with respect to property for which a credit was
38 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
39 depreciation or amortization computed pursuant to the internal revenue code
40 on the Arizona adjusted basis of the property.
- 41 19. The amount by which the adjusted basis computed under the internal
42 revenue code with respect to property for which a credit was claimed under
43 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
44 disposed of during the taxable year exceeds the adjusted basis of the

1 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
2 applicable.

3 20. The deduction referred to in section 1341(a)(4) of the internal
4 revenue code for restoration of a substantial amount held under a claim of
5 right.

6 21. The amount by which a net operating loss carryover or capital loss
7 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
8 code exceeds the net operating loss carryover or capital loss carryover
9 allowable pursuant to section 43-1029, subsection F.

10 22. Any amount deducted pursuant to section 170 of the internal revenue
11 code representing contributions to a school tuition organization or a public
12 school for which a credit is claimed under section 43-1089 or 43-1089.01.

13 23. Any amount deducted in computing Arizona gross income as expenses
14 for installing solar stub outs or electric vehicle recharge outlets in this
15 state with respect to which a credit is claimed pursuant to section 43-1090.

16 24. Any wage expenses deducted pursuant to the internal revenue code
17 for which a credit is claimed under section 43-1087 and representing net
18 increases in qualified employment positions for employment of temporary
19 assistance for needy families recipients.

20 25. Any amount deducted for conveying ownership or development rights
21 of property to an agricultural preservation district under section 48-5702
22 for which a credit is claimed under section 43-1081.02.

23 26. The amount of any depreciation allowance allowed pursuant to
24 section 167(a) of the internal revenue code to the extent not previously
25 added.

26 27. With respect to property for which an expense deduction was taken
27 pursuant to section 179 of the internal revenue code, the amount in excess of
28 twenty-five thousand dollars.

29 28. The amount of any deductions that are claimed in computing federal
30 adjusted gross income representing expenses for which a credit is claimed
31 under section 43-1075.

32 29. THE AMOUNT BY WHICH THE DEPRECIATION OR AMORTIZATION COMPUTED UNDER
33 THE INTERNAL REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A CREDIT WAS
34 TAKEN UNDER SECTION 43-1090.01 EXCEEDS THE AMOUNT OF DEPRECIATION OR
35 AMORTIZATION COMPUTED PURSUANT TO THE INTERNAL REVENUE CODE ON THE ARIZONA
36 ADJUSTED BASIS OF THE PROPERTY.

37 30. THE AMOUNT BY WHICH THE ADJUSTED BASIS COMPUTED UNDER THE INTERNAL
38 REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A CREDIT WAS CLAIMED UNDER
39 SECTION 43-1090.01 AND WHICH IS SOLD OR OTHERWISE DISPOSED OF DURING THE
40 TAXABLE YEAR EXCEEDS THE ADJUSTED BASIS OF THE PROPERTY COMPUTED UNDER
41 SECTION 43-1090.01.

42 31. THE AMOUNT OF A NONQUALIFIED WITHDRAWAL, AS DEFINED IN SECTION
43 15-1871, FROM A COLLEGE SAVINGS PLAN ESTABLISHED PURSUANT TO SECTION 529 OF
44 THE INTERNAL REVENUE CODE THAT IS MADE TO A DISTRIBUTEE TO THE EXTENT THE
45 AMOUNT IS NOT INCLUDED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME, EXCEPT

1 THAT THE AMOUNT ADDED UNDER THIS PARAGRAPH SHALL NOT EXCEED THE DIFFERENCE IN
2 THE AMOUNT SUBTRACTED UNDER SECTION 43-1022 AND THE AMOUNT ADDED IN THE PRIOR
3 TAXABLE YEAR.

4 Sec. 2. Repeal

5 Section 43-1021, Arizona Revised Statutes, as amended by Laws 2005,
6 chapter 292, section 2, is repealed.

7 Sec. 3. Section 43-1022, Arizona Revised Statutes, is amended to read:
8 43-1022. Subtractions from Arizona gross income

9 In computing Arizona adjusted gross income, the following amounts shall
10 be subtracted from Arizona gross income:

11 1. The amount of exemptions allowed by section 43-1023.

12 2. Benefits, annuities and pensions in an amount totaling not more
13 than two thousand five hundred dollars received from one or more of the
14 following:

15 (a) The United States government service retirement and disability
16 fund, retired or retainer pay of the uniformed services of the United States,
17 the United States foreign service retirement and disability system and any
18 other retirement system or plan established by federal law.

19 (b) The Arizona state retirement system, the corrections officer
20 retirement plan, the public safety personnel retirement system, the elected
21 officials' retirement plan, an optional retirement program established by the
22 Arizona board of regents under section 15-1628, an optional retirement
23 program established by a community college district board under section
24 15-1451 or a retirement plan established for employees of a county, city or
25 town in this state.

26 3. A beneficiary's share of the fiduciary adjustment to the extent
27 that the amount determined by section 43-1333 decreases the beneficiary's
28 Arizona gross income.

29 4. The amount of any distributions from an individual retirement
30 account as provided for in section 408 of the internal revenue code or from a
31 qualified retirement plan of a self-employed individual as provided for in
32 section 401 of the internal revenue code to the extent that total adjustments
33 made pursuant to this paragraph in all tax years do not exceed the total of
34 all contributions made by the taxpayer to such plans prior to December 31,
35 1975, which were included in computing Arizona taxable income.

36 5. The amount of income on an installment receivable which is
37 recognized pursuant to the internal revenue code and which has already been
38 recognized on the death of the taxpayer for purposes of this title for tax
39 years ending before January 1, 1990.

40 6. Interest income received on obligations of the United States, less
41 any interest on indebtedness, or other related expenses, and deducted in
42 arriving at Arizona gross income, which were incurred or continued to
43 purchase or carry such obligations.

1 7. The amount of any income tax refunds which were received from
2 states other than Arizona and which were included as income in computing
3 federal adjusted gross income.

4 8. Annuity income included in federal adjusted gross income pursuant
5 to section 72 of the internal revenue code if the first payment with respect
6 to such annuity was received prior to December 31, 1978.

7 9. The excess of a partner's share of income required to be included
8 under section 702(a)(8) of the internal revenue code over the income required
9 to be included under chapter 14, article 2 of this title.

10 10. The excess of a partner's share of partnership losses determined
11 pursuant to chapter 14, article 2 of this title over the losses allowable
12 under section 702(a)(8) of the internal revenue code.

13 11. The amount by which the adjusted basis of property described in
14 this paragraph and computed pursuant to this title and the income tax act of
15 1954, as amended, exceeds the adjusted basis of such property computed
16 pursuant to the internal revenue code. This paragraph shall apply to all
17 property which is held for the production of income and which is sold or
18 otherwise disposed of during the taxable year other than depreciable property
19 used in a trade or business.

20 12. The amount allowed by section 43-1024 for amortization, by a
21 qualified defense contractor certified by the department of commerce under
22 section 41-1508, of a capital investment for private commercial activities.

23 13. The amount of gain included in federal adjusted gross income on the
24 sale or other disposition of a capital investment that a qualified defense
25 contractor has elected to amortize pursuant to section 43-1024.

26 14. The amount allowed by section 43-1025 for contributions during the
27 taxable year of agricultural crops to charitable organizations.

28 15. The portion of any wages or salaries paid or incurred by the
29 taxpayer for the taxable year that is equal to the amount of the federal work
30 opportunity credit, the empowerment zone employment credit, the credit for
31 employer paid social security taxes on employee cash tips and the Indian
32 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
33 and 1396 of the internal revenue code.

34 16. The amount of prizes or winnings less than five thousand dollars in
35 a single taxable year from any of the state lotteries established and
36 operated pursuant to title 5, chapter 5, article 1, except that all such
37 winnings before March 22, 1983, including periodic distributions from such
38 winnings made after March 22, 1983, may be subtracted.

39 17. The amount of exploration expenses that is determined pursuant to
40 section 617 of the internal revenue code, that has been deferred in a taxable
41 year ending before January 1, 1990 and for which a subtraction has not
42 previously been made. The subtraction shall be made on a ratable basis as
43 the units of produced ores or minerals discovered or explored as a result of
44 this exploration are sold.

1 18. The amount included in federal adjusted gross income pursuant to
2 section 86 of the internal revenue code, relating to taxation of social
3 security and railroad retirement benefits.

4 19. To the extent not already excluded from Arizona gross income under
5 section 112 of the internal revenue code, compensation received for active
6 service as a member of the armed forces of the United States for any month
7 during any part of which the member served in a combat zone as determined
8 under section 112 of the internal revenue code or in an area given the same
9 treatment as a combat zone for purposes of section 112 of the internal
10 revenue code.

11 20. The amount of unreimbursed medical and hospital costs, adoption
12 counseling, legal and agency fees and other nonrecurring costs of adoption
13 not to exceed three thousand dollars. In the case of a husband and wife who
14 file separate returns, the subtraction may be taken by either taxpayer or may
15 be divided between them, but the total subtractions allowed both husband and
16 wife shall not exceed three thousand dollars. The subtraction under this
17 paragraph may be taken for the costs that are described in this paragraph and
18 that are incurred in prior years, but the subtraction may be taken only in
19 the year during which the final adoption order is granted.

20 21. The amount authorized by section 43-1027 for the taxable year
21 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

22 22. With respect to a medical savings account established pursuant to
23 section 43-1028:

24 (a) An eligible individual may subtract:

25 (i) The amount of contributions made by the individual's employer
26 during the taxable year to the individual's medical savings account pursuant
27 to section 43-1028 to the extent that the employer contributions are included
28 in the individual's federal adjusted gross income.

29 (ii) The amount deposited by the individual in the account during the
30 taxable year to the extent that the individual's contributions are included
31 in the individual's federal adjusted gross income.

32 (b) The individual's employer may subtract the amount of contributions
33 made by the employer to a medical savings account established on the
34 individual's behalf to the extent that the contributions are not deductible
35 under the internal revenue code.

36 23. The amount by which a net operating loss carryover or capital loss
37 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
38 operating loss carryover or capital loss carryover allowable pursuant to
39 section 1341(b)(5) of the internal revenue code.

40 24. Any amount of qualified educational expenses that is distributed
41 from a qualified state tuition program determined pursuant to section 529 of
42 the internal revenue code and that is included in income in computing federal
43 adjusted gross income.

1 25. Any item of income resulting from an installment sale that has been
2 properly subjected to income tax in another state in a previous taxable year
3 and that is included in Arizona gross income in the current taxable year.

4 26. The amount authorized by section 43-1030 relating to holocaust
5 survivors.

6 27. The amount authorized by section 43-1031 for constructing an energy
7 efficient residence.

8 28. An amount equal to the depreciation allowable pursuant to section
9 167(a) of the internal revenue code for the taxable year computed as if the
10 election described in section 168(k)(2)(C)(iii) of the internal revenue code
11 had been made for each applicable class of property in the year the property
12 was placed in service.

13 29. With respect to property that is sold or otherwise disposed of
14 during the taxable year by a taxpayer that complied with section 43-1021,
15 paragraph 26 with respect to that property, the amount of depreciation that
16 has been allowed pursuant to section 167(a) of the internal revenue code to
17 the extent that the amount has not already reduced Arizona taxable income in
18 the current or prior taxable years.

19 30. With respect to property for which an adjustment was made under
20 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
21 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
22 the amount was adjusted under section 43-1021, paragraph 27 and in each of
23 the following four years.

24 31. THE AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR TO A COLLEGE SAVINGS
25 PLAN ESTABLISHED UNDER TITLE 15, CHAPTER 14, ARTICLE 7 TO THE EXTENT THAT THE
26 CONTRIBUTIONS WERE NOT DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME.
27 THE AMOUNT SUBTRACTED SHALL NOT EXCEED:

28 (a) TWO THOUSAND DOLLARS FOR A SINGLE INDIVIDUAL OR A HEAD OF
29 HOUSEHOLD.

30 (b) FOUR THOUSAND DOLLARS FOR A MARRIED COUPLE FILING A JOINT
31 RETURN. IN THE CASE OF A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS, THE
32 SUBTRACTION MAY BE TAKEN BY EITHER TAXPAYER OR MAY BE DIVIDED BETWEEN THEM,
33 BUT THE TOTAL SUBTRACTIONS ALLOWED BOTH HUSBAND AND WIFE SHALL NOT EXCEED
34 FOUR THOUSAND DOLLARS.

35 Sec. 4. Retroactivity

36 This act applies retroactively to taxable years beginning from and
37 after December 31, 2005.